IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

SPL. APPL. WRIT No. 997 of 1999

SMT. CHHOTA PARIHAR
V/S
STATE OF RAJ. & ORS

Mr. BR MEHTA, for the appellant / petitioner

Mr. OP BOOB, DY.G.A., for the respondent

Date of Order : 6.12.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

The learned Single Judge by the impugned order accepted the writ petition in the light of the judgment of this Court in Anamma Chako Vs. State and ors. being S.B.Civil Writ Petition No. 2888/95 decided on 1.10.1997, and directed the respondents to consider the claim of the petitioner in terms of the said judgment, and give her benefits in terms mentioned therein, within a period of three months from the date of filing of the certified copy of the order before the competent authority.

The appellant was appointed way back in 1957, and after retirement she was not paid pension, and other retiral benefits reckoning from the date of initial appointment, and that is how the controversy arose.

Admittedly, the respondents have not challenged this judgment, therefore, so far the question of appellant's entitlement to be given benefits in terms of the judgment in Anamma Chako's case that is no more in controversy. The only contention of the learned counsel is that all said and done, despite this judgment, the appellant was not paid the amounts as directed by the learned Single Judge of this Court, and the appellant was deprived of the amount for a long period of time without any justification, and therefore, the appellant is entitled to be awarded interest by way of damages for unlawfully deprivation of the money which was paid to him at much belated hour. Reliance is placed on a Division Bench judgment of this Court in Dr. Ratan Lal Mathur Vs. State reported in 1998(1) WLC (Raj.)-264, and it is claimed that at least 12% interest should be awarded.

Learned counsel for the respondent, on the other hand, submits that after the judgment of the learned Single Judge the payment was made expeditiously, and the time taken was only usual time taken in the government procedure, and no liability of interest should be saddled.

In our view, the learned Single Judge has already given sufficient time of three months not from the date of judgment but from the date of producting certified copy of

the judgment before the competent authority. Ordinarily when the judgment is passed in presence of learned counsel for the respondent, the time should have started running from the date of judgment because it is the direction given by the Hon'ble Court in the judgment which is to be complied with. In such circumstances, there cannot be any justification for not making payment of the amount to which the appellant was found entitled within the aforesaid period. The plight of a retired person can better be comprehended then described. Apart from Dr.Ratan Lal's case, there are judgments and judgments of this Court as well as of the Hon'ble Supreme Court directing payment of interest on belated payment of pension, and other terminal benefits. Thus, we find the appellant to be entitled to be awarded interest. However, looking to the receding rate of interest in the bank, we think it appropriate to award interest @ 6% only on the amount paid to the appellant in pursuance of the impugned judgment of the learned Single Judge to be computed from the date after expiry of three months from the date of production of certified copy of the order of the learned Single Judge before the competent authority till the amount was actually credited to the appellant's account.

The appeal is accordingly allowed in part and it is directed that the appellant shall be entitled to interest @ 6% on the amount paid to him to be computed from

the date after expiry of three months from the date of production of certified copy of the order of the learned Single Judge before the competent authority till the amount was actually credited to the appellant's account. It is further directed that this calculation be made, and the payment be made to the appellant within a period of three months from today.

It is thereafter further directed that in the event of failure on the part of the respondent to make payment as directed above, the appellant shall be entitled to file execution before the concerned principal Civil Court of original jurisdiction under O. 21 Rule 11 C.P.C., and that Court shall execute the order as a decree of the Civil Court. The appeal is accordingly allowed in part.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

/Sushil/